

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON AGRICULTURE AND FORESTRY

March 12, 1993 Hearing Room D 3:30 p.m. Tapes 27 - 30

MEMBERS PRESENT: Rep. Liz VanLeeuwen, Chair Rep. Sam Dominy
Rep. Bill Fisher Rep. Tim Josi Rep. Dennis Luke Rep. Bill Markham Rep.
Chuck Norris

MEMBER EXCUSED: Rep. Ray Baum Rep. Marilyn Dell

VISITING MEMBER: Rep. Larry Sowa, District 26

STAFF PRESENT: Catherine Fitch, Committee Administrator Sue
Nichol, Committee Clerk

MEASURES CONSIDERED:

HB 2209 - Public Hearing and Work Session

SB 115 - Public Hearing and Work Session HB 2993 - Public Hearing and
Work Session HB 3124 - Public Hearing HB 2097 - Public Hearing

WITNESSES: Lorna Youngs, Department of Agriculture Will
Wise, Oregon Potato Commission Rich Betz, Oregon Potato Commission Jay
Hoffman, Oregon Potato Commission Mike McKoen, Klamath Basin Shippers
Association Dan Chin, Oregon Potato Commission Bruce Andrews, Director
Oregon Department of Agriculture Rep. Larry Sowa, District 26 Rod
Ingram, Department of Fish and Wildlife Rod Harder, Oregon Sportsmen's
Defense Fund Ken Evans, Oregon Hunter's Association Molly Emmons, Oregon
Veterinary Medical Examining Board Michael Foland, DVM, Oregon
Veterinary Medical Association Tom Keck, DVM, Veterinary Medical
Examining Board

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These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in
quotation marks report a speaker's exact words. For complete contents
of the proceedings, please refer to the tapes. [--- Unable To Translate
Graphic ---]

TAPE 27, SIDE A

005 CHAIR VanLEEUEWEN: Calls the meeting to order at 1:05.

PUBLIC HEARING ON HB 2209

015 CATHERINE FITCH: Summarizes HB 2209 and the amendments contained
in the hand-engrossed version (Exhibit A). HB 2209 exempts potatoes
qualifying for exemption under the federal marketing order from
mandatory state

grade inspection. The amendment would make grading inspection a

voluntary activity.

020 LORNA YOUNGS, Department of Agriculture: The purpose of the original bill was to bring the state inspection law in line with the federal

marketing order when it comes to exemptions from inspection.

065 CHAIR VanLEEUEWEN: Would the original bill be acceptable to you?

066 YOUNGS: Yes, the purpose was to allow for exemptions in our state law, in line with the federal marketing order.

072 REP. MARKHAM: Do the amendments say the potatoes must have a federal inspection grade on it, and not a state grade?

075 YOUNGS: The amendments would require a federal grade declared.

078 REP. MARKHAM: What if they don't agree to that?

080 YOUNGS: Currently, we are grading to federal standards.

081 REP. MARKHAM: Will the federal inspectors take over if the state stops inspections?

084 YOUNGS: The federal government operates this program and they hire the state to do it.

094 REP. NORRIS: This would apply to potatoes regardless of where they are grown, correct?

100 YOUNGS: For the requirement of a grade designation, yes.

103 REP. NORRIS: Who decides whether the grower or packer labels potatoes?

105 YOUNGS: If the potatoes are labelled at the site, the grower does it. If several growers are going to one packer, the packer labels them.

113 REP. NORRIS: This would be understood by those participating?

115 YOUNGS: This labelling provision has been in place for some time and so there should be no confusion.

123 WILL WISE, Oregon Potato Commission: The Commission does not support the bill as it is amended, but would support it in the original form.

Reads testimony contained in Exhibit B.

179 Also with me are Jay Hoffman, Oregon Potato Commission, and Rich Betz, a grower and shipper from Hermiston and Oregon Potato Commission.

198 RICH BETZ, Oregon Potato Commission: The concern we have with the amendment is that we don't want the inspections done away with.

231 CHAIR VanLEEUEWEN: Where in the amendments do you see that inspections will be cut out?

234 BETZ: We feel that the state may not perform the inspection.

243 WISE: The amendment removes potatoes from a list of commodities required to have state inspection.

262 JAY HOFFMAN, Shipper, Commissioner from the 3rd District: Part of the concern was that if we removed the mandatory inspection, a federal

marketing order may fail to set handling regulation and we would be under no inspection.

273 MIKE McKOEN, Klamath Basin Shippers Association: Supports HB 220 9. Growers and shippers prefer to monitor their own crop and have input in setting regulations.

323 The adoption of this bill would remove double regulation.

361 DAN CHIN, Oregon Potato Commission: We had a lack of understanding in what could happen in this bill.

377 CHAIR VanLEEuwEN: Do you have the authority to make an agreement for the Potato Commission if a compromise could be worked out?

398 McKOEN: I'm not sure the members here can speak for everyone. They need time to explain it to the members.

TAPE 28, SIDE A

013 CHIN: We thought the original bill was correct, but we never got to the point of examining the next step.

014 WISE: There is a limitation on authority.

024 REP. NORRIS: What's the essential difference between the amended version and the original bill?

037 YOUNGS: The amended bill removes the requirement for state inspection entirely. It keeps the requirement for grading.

046 REP. MARKHAM: Did you say you're under double inspection?

047 McKOEN: We're under double regulation. We have two laws that say the same thing.

052 REP. MARKHAM: Is that burdensome?

054 McKOEN: If we are regulated under the federal marketing order, we have more flexibility. The state law is not as flexible.

064 REP. FISHER: Will this save money?

066 YOUNGS: If there is no change in the marketing order, there will be no savings. If the marketing order does something different, there may be

some change in costs.

075 CHAIR VanLEEuwEN: Closing public hearing on HB 2209.

086 I'm under the impression that those who sponsored HB 3356 wanted that pulled, is that correct?

090 WISE: Yes.

PUBLIC HEARING ON SB 115

142 FITCH: SB 115 would delete the requirement that the Department of Agriculture hold a hearing every time it desires to make a purchase over \$500.

157 CHAIR VanLEEuwEN: Closes public hearing on SB 115.

WORK SESSION ON SB 115

178 REP. LUKE: There hadn't been any complaints about what they had done.

193 BRUCE ANDREWS, Department of Agriculture: When we were informed of this problem, we went to the Attorney General's office and validated it. It

was determined that what we were doing under executive rules superseded anything that we needed to do. Their recommendation was that we take this current course of action.

210 CHAIR VanLEEuwEN: Bill Johnson from Foster mentioned in the last hearing his concern that we needed to be a watchdog on the way agencies spend money.

229 MOTION: REP. NORRIS: Moves that SB 115-A be moved to the Natural Resources Committee with a DO PASS recommendation.

233 CHAIR VanLEEuwEN: Restates motion.

237 VOTE: In a roll call vote, REPS. FISHER, LUKE, MARKHAM, NORRIS and CHAIR VanLEEuwEN vote AYE. REPS. DELL, BAUM and DOMINY are EXCUSED.

REP. JOSI is ABSENT but later votes AYE as does REP. DOMINY. 257 CHAIR VanLEEuwEN: SB 115-A is passed to full committee and the work session is closed.

PUBLIC HEARING ON HB 2293

250 REP. SOWA: Explains HB 2993 which would allow hunters to receive more than one mountain sheep ewe tag in a lifetime, but maintain the limit on one ram tag per lifetime.

292 This would allow the Department of Fish and Wildlife to plan ahead in case a population reduction plan needed to be carried out.

302 REP. LUKE: So a person could shoot two sheep in his lifetime?

311 REP. SOWA: It would be a minimum of two sheep. A hunter could shoot as many ewes as he had tags for.

322 REP. NORRIS: Is the problem that we have too many girl sheep for the number of boy sheep?

323 REP. SOWA: No, the problem is that there may be overpopulation in some areas.

324 ROD INGRAM, Department of Fish and Wildlife: Supports HB 299 3. Explains testimony contained in Exhibit C.

TAPE 27, SIDE B

015 REP. MARKHAM: Can't you already do this without this bill?

021 INGRAM: We will not get a lot of applications for ewe tags if hunters can only hunt sheep once in a lifetime. We need those applications if

we're going to seriously control populations.

044 REP. LUKE: Do you have much problems with poaching?

047 INGRAM: It's hard to poach because of the terrain. There may be some trophy hunters.

054 REP. LUKE: I figured that since the tag price was so high, there may be a demand for poached sheep.

055 INGRAM: Our tag prices are so high because we have some record making rams that are very attractive to hunters. In Montana, their tag sold

for \$202,000.

069 ROD HARDER, Oregon Sportmen's Defense Fund: Supports HB 2993 as it would be a good tool for future management (Exhibit D).

081 KEN EVANS, Oregon Hunter's Association: Supports HB 2993 (Exhibit E).

090 REP. JOSI: Closes work session on HB 2993.

WORK SESSION ON HB 2993 099 MOTION: REP. FISHER: Moves HB 2993 to the full committee with a DO PASS recommendation.

100 REP. JOSI: Repeats motion. Is there any discussion?

115 VOTE: In a roll call vote, REPS. JOSI, LUKE, MARKHAM, NORRIS, AND FISHER vote AYE. CHAIR VanLEEUEWEN and REP. DOMINY are ABSENT and

later vote AYE. REPS. BAUM and DELL are EXCUSED.

120 REP. LUKE will carry the bill.

121 REP. JOSI: Closes work session on HB 2993.

123 REP. JOSI: Open work session on SB 115 and votes AYE on the motion to move the bill to the full committee.

124 REP. JOSI: Closes work session on SB 115.

137 REP. JOSI: Reopens work session on HB 2209.

143 YOUNGS: Agreement with the others interested in the bill has been reached. We will keep the language of the original bill. We have

another amendment that would satisfy everyone. That amendment would go into Section 632.336 of the original law, which is the section that requires grade inspection by the Department, and would add language which would give the option for either a grade inspection by the Department or a grade inspection by a federal entity certified under the federal marketing order to do that inspection.

167 CHAIR VanLEEuwEN: Asks that Lorna work with committee staff to see that we get the amendments drafted and distributed.

182 MOTION: REP. NORRIS: Moves to ADOPT conceptual amendments, as have been proposed by the work group and just presented, to HB 2209.

185 CHAIR VanLEEuwEN: Restates motion. Hearing no objections, the amendments are adopted.

192 MOTION: REP. NORRIS: Moves HB 2209, AS CONCEPTUALLY AMENDED, to the full committee with a DO PASS RECOMMENDATION.

200 VOTE: In a roll call vote, REPS. FISHER, JOSI, LUKE, MARKHAM, NORRIS AND CHAIR VanLEEuwEN vote AYE. REPS. BAUM, DELL AND DOMINY are

EXCUSED. REP. DOMINY later votes AYE.

205 CHAIR VanLEEuwEN: The motion passes.

206 REP. NORRIS will carry the bill to the full committee.

214 CHAIR VanLEEuwEN: Closes work session on HB 2209.

CHAIR VanLEEuwEN: Reopens Work Session on HB 2993 so she can vote on it.

232 CHAIR VanLEEuwEN votes AYE.

232 CHAIR VanLEEuwEN: Meeting is recessed.

240 CHAIR VanLEEuwEN: Reopens meeting.

PUBLIC HEARING ON HB 3124

254 CATHERINE FITCH: Gives a summary of HB 3124 which specifies Veterinary Medical Examining Board powers during investigations; make complaints

confidential during investigation; and exempts complainant from suit

(Exhibit F).

290 REP. LUKE: Will the accused have the right to have the attorney present?

291 FITCH: I believe they do.

299 REP. MARKHAM: Is this similar to the medical, dental and pharmacy boards?

302 FITCH: Yes.

313 REP. NORRIS: It would seem likely that they have the right to an attorney.

372 REP. FISHER: Doesn't like Section 2 that allows complainant to make an accusation without responsibility.

TAPE 28, SIDE B

008 REP. JOSI: This is put in to encourage people to come forward. Once information is given to the Board, it is up to them to determine if the information is valid in order to proceed.

016 REP. FISHER: I don't think this is needed.

018 REP. MARKHAM: How would we balance that, make them file a civil action?

023 REP. JOSI: I think Rep. Fisher is more right in this case, since the fear of reprisal isn't that great.

033 CHAIR VanLEEUEWEN: Closes public hearing on HB 2344 to give Rep. Dominy an opportunity to vote on those bills he missed.

040 Opens work session on HB 2209.

041 REP. DOMINY votes AYE. 042 CHAIR VanLEEUEWEN: Closes the work session on HB 2209 and opens the work session on SB 115.

043 REP. DOMINY votes AYE.

044 CHAIR VanLEEUEWEN: Closes the work session on SB 115. Opens the work session on HB 2993.

045 REP. DOMINY votes AYE.

054 CHAIR VanLEEUEWEN: Opens public hearing on HB 2097.

PUBLIC HEARING ON HB 2097

Rep. Sowa is invited to join the subcommittee on the dias.

058 CATHERINE FITCH: Explains HB 2097 which would do the following:
- Restrict practitioner exemptions to licensure only. - Clarify temporary licensing. - Allow exam appeals. - Make in-state and out-of-state experience requirements the same. - Permit discipline of non-licensed practitioners. - Require first year vets to pay license fees. - Enable Board to refuse licensing due to disciplinary actions taken.

(Exhibit G)

152 REP. LUKE: How often is a test administered?

156 REP. SOWA: Once a year.

159 REP. LUKE: So, theoretically, a person could be in business for a whole year without taking the test? Could they issue a temporary license and

allow them to practice before the next test?

173 REP. SOWA: Yes, they could practice up to a year without a license.

176 REP. LUKE: Does this present a problem?

178 REP. SOWA: Section 2 clarifies that a person has to be in business in another state.

183 FITCH: Continues to explain the bill.

200 REP. LUKE: What is an interim permit?

205 FITCH: The permit is typical of an internship.

210 REP. SOWA: With an interim permit, the intern serves under a fully qualify veterinarian.

229 FITCH: Continues to explain the bill. 334 MOLLY EMMONS, Oregon Veterinary Medical Examining Board: Continues to explain the bill.

385 REP. LUKE: Are you saying Section 17 says that professional corporations don't have to register with the veterinary board?

390 EMMONS: The statute already says they don't have to register.

421 REP. FISHER: Page 1, line 30 references the amount of consultation that may be done by an out-of-state veterinarian in 365 calendar days. Why

don't you just make that a calendar year?

430 EMMONS: I believe legislative counsel put that it.

433 REP. FISHER: The problem I see is, when are you going to start counting the 365 days?

452 EMMONS: Generally, we have interpreted the laws to mean that a person cannot consult more than 30 days for any one case within one year.

471 CHAIR VanLEEuwEN: The reference before was for one treating period.

481 EMMONS: We do allow a doctor to have an inactive license for thirty days. I may have to check on this.

TAPE 29, SIDE A

030 REP. MARKHAM: What if a specialist from another state was needed for a longer period of time than thirty days?

045 EMMONS: We need to insure against someone practicing without an Oregon license.

068 Summarizes written testimony supporting HB 2097 (Exhibit H).

135 CHAIR VanLEEUEWEN: You would like to expand the authority of the Board over those persons practicing gratuitously?

141 EMMONS: There are situations where veterinarians can practice without a license, such as working for the federal government, if they're

working for free, or if they're working on their own animals.

140 CHAIR VanLEEUEWEN: Here it says if I do it for free, or if I'm not a veterinarian and I'm practicing for free, you can sanction me. Where is this in the bill?

156 EMMONS: Section 1, line 7, and all the way through Section 1 does that.

175 CHAIR VanLEEUEWEN: Would this mean I can't do things like dock tails of a neighbor's sheep?

185 EMMONS: We would have to insure this was done in a humane manner.

190 CHAIR VanLEEUEWEN: How does this apply to me if I'm not a vet?

198 EMMONS: You would be practicing veterinary medicine. There are exceptions that cover this. One of the problems we're having is a

veterinary technician performing spays and neuters in a hospital and the veterinarian getting paid for it. This is the problem we're trying to

deal with. Most of these problems happen in a small animal clinic.

226 REP. LUKE: Would you investigate a farmer docking their own sheep, if a neighbor complained?

227 EMMONS: I believe we could, but it may fall into the domain of a county animal control department.

238 REP. LUKE: Can a farmer do these things on his or her own, without violating the law?

241 EMMONS: Yes.

246 CHAIR VanLEEUEWEN: Now you said if I was doing it gratuitously for a neighbor or, you could come in and sanction me.

254 EMMONS: If the neighbor or didn't like how you did it, they could complain to us.

276 CHAIR VanLEEuwEN: Questions the provision in HB 3124 to keep complaints against a veterinarian secret.

288 MICHAEL FOLAND, DVM, Oregon Veterinary Medical Association: The purpose of this section in HB 3124 is that if there was a frivolous complaint,

then it would be private. Submits testimony contained in Exhibit I.

313 CHAIR VanLEEuwEN: Does this protect the person who has the alleged problem?

314 FOLAND: It keeps all the investigation materials confidential.

320 REP. SOWA: It doesn't keep the information from the accused, just from the public.

340 EMMONS: The Attorney General has suggested that it's okay to exempt these classes from obtaining a license but we don't want them to commit gross negligence in their practice.

386 REP. FISHER: Would you have to use novocaine in certain cases in order to call it humane?

395 FOLAND: I don't believe anesthesia is always necessary.

TAPE 30, SIDE A

018 CHAIR VanLEEuwEN: Closes public hearing on 2097. 029 REP. FISHER: On page 4, line 36, could this language be changed so it is similar to the language used for other boards?

038 CHAIR VanLEEuwEN: Reopens public hearing on HB 3124.

PUBLIC HEARING ON HB 3124

041 MOLLY EMMONS, Oregon Veterinary Medical Examining Board: Summarizes HB 3124 and reads testimony (Exhibit J).

063 REP. LUKE: Is the accused allowed to have an attorney present?

064 EMMONS: Yes.

066 FOLAND: Explains due process in respect to a subpoena. This process would need to be followed in a veterinarian's records were subpoenaed.

Submits testimony in Exhibit K.

075 CHAIR VanLEEuwEN: I don't see anywhere where you could limit the part of your records that were subpoenaed.

076 FOLAND: I'm just using that as an example. If I believe a subpoena was unreasonable, I have a procedure to follow.

088 CHAIR VanLEEuwEN: Can the Oregon State Veterinary Medical Examining Board come in and examine me because I docked the tails of my neighbor's lambs?

089 EMMONS: We would do that if a complaint was filed.

098 FOLAND: There has to be a complaint to initiate the process.

101 CHAIR VanLEEUEWEN: The Medical Examining Board can do it on their own initiative?

102 EMMONS: According to the bill, yes, we could, but in a real world situation, we wouldn't.

103 CHAIR VanLEEUEWEN: This is a concern in the age of animal rightists.

104 EMMONS: This is the same language as is used for other medical professionals.

114 REP. DOMINY: You would only investigate upon complaint?

118 EMMONS: I believe that's correct. There are instances where other agencies may recommend that we investigate something, but generally,

they've already done some investigation. There is a due process.

124 REP. FISHER: How many times does this problem will this occur, that you are hindered from investigating a complaint?

132 EMMONS: We have about 90 complaints a year. In the past, there have been instances where gathering evidence has been difficult. There was a case a few years ago where a doctor was dispensing outdated drugs and

didn't let investigators in.

156 REP. FISHER: Do you have recourse through the sheriff's office, District Attorney, etc.?

157 EMMONS: If it were a criminal offense and not a licensing offense.

161 REP. FISHER: Is this worth all the effort?

165 EMMONS: We believe we need to plug up some holes and be consistent with other regulatory boards.

175 REP. FISHER: Is your next request going to be a series of fines that you can dish out?

178 EMMONS: Probably not any more than we already have.

180 CHAIR VanLEEUEWEN: How are HB 3124 and HB 2097 linked?

183 EMMONS: They aren't dependant on each other.

193 FOLAND: They both address bringing the Veterinary practice act in line with other practice acts in the medical field.

229 TOM KECK, DVM, Veterinary Medical Examining Board: Testifies in favor of HB 3124 in order to competently investigate complaints.

250 REP. LUKE: Would like protection of owners when working on his own or his neighbor's animals.

337 KECK: "For gratuitous service" would be allowed.

360 CHAIR VanLEEUWEN: Closes public hearing on HB 3124.

368 Meeting adjourned at 4:05.

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 2209 - Hand engrossed amendments HB 2209-1 - Staff - 2
pages B - HB 2209 - Testimony - William Wise - 1 page C -
HB 2993 - Testimony - Rod Ingram - 2 pages D - HB 2993 -
Testimony - Rod Harder - 1 page E - HB 3124 - HB 2993 -
Testimony - Ken Evans - 1 page F - HB 3124 - Preliminary Staff
Measure Summary - Catherine Fitch - 1 page G - HB 2097 -
Preliminary Staff Measure Summary - Catherine Fitch - 3 page H
- HB 2097 - Testimony - Molly Evans - 5 pages I - HB 2097 -
Testimony - Mike Foland - 1 page J - HB 3124 - Testimony - Molly
Evans - 1 page K - HB 3124 - Testimony - Mike Foland - 1 page